



## **Governor's Juvenile Law Commission**

**September 8, 2004**

### **Commission Members Present**

Katie Humphreys  
Paul Ash for Bob Marra  
Pam Cline  
Steve DeMougin  
Bruce Donaldson  
Roger Duvall  
Glenn Howard  
Amy Karozos for Susan Carpenter  
Justice Robert Rucker  
Viola Taliaferro

### **Agency**

JLC Chair  
DOE  
DOC  
FSSA  
IJJTF Board Member  
Scott County Prosecutor  
Senate  
State Public Defender  
Indiana Supreme Court  
Monroe Circuit Court

### **Commission Members Absent**

Melvin Carraway  
Ralph Foley  
Robert Kuzman  
Larry Landis  
David Long  
James Payne  
Chessie Smith-Hacker  
Robin Tew  
Diane WeissBradley  
Connie Windhorst

### **Agency**

Indiana State Police  
House of Representatives  
House of Representatives  
Public Defender Council  
Senate  
Marion Superior Court, Juvenile Div.  
Youth Representative  
ICJI  
Lake Co. Juvenile Court Probation  
Parent Representative

### **Staff Present**

Nikki Kincaid

### **Agency**

ICJI

### **Contract Staff Present**

Laurie Elliott  
Jim Hmurovich  
Michelle Tennell

### **Agency**

Youth Law T.E.A.M.  
Staff  
ICJI

### **Guests**

Natalie Auberry  
Janet Corson  
Allison Wharry  
Cathy Graham

### **Agency**

J-TAC  
DMHA  
IHHA  
IARCCA

**I. Called to Order:** 10:40 a.m.  
By: Katie Humphreys, Chair of the Governor's Juvenile Law Commission.

**II. Minutes of August 11, 2004 meeting were distributed via e-mail and mail prior to meeting and distributed via handout for review.**

Due to the lack of a quorum, consensus was reached to approve the August minutes.

**III. JLC Subcommittee Best Practices Inventory**

The Chair gave an overview of the "Best Practices Inventory" designed by Nikki Kincaid with the input of the JLC subcommittees and staff to identify state and national best practices in the four core areas under review by the subcommittees. This 25-page document includes the Project/Activity name, description, contact information, publications & website information as well as best practice justification. While this is not intended to be an exhaustive inventory of all best/promising practices, it will be used as a framework to which other best practices may be added. Additional information such as an inventory to be completed by the Indiana Judicial Center regarding court programs, as well as best practices of Child Protection teams will ultimately be included. The JLC members are encouraged to share any best/promising practices they are aware of with Nikki Kincaid for addition to the inventory.

The Chair is a firm believer in developing a consistent knowledge base from which several more cogent recommendations may be developed. The Best Practice Inventory will be the vehicle from which more in depth study and recommendations may flow.

Bruce Donaldson requested the Inventory be made available to the JLC and its subcommittees in electronic format. Nikki Kincaid will e-mail this document upon its completion.

**IV. JLC Subcommittee Reports**

- a. Identification, Assessment & Service Referral Subcommittee**
- b. Information Sharing Subcommittee**
- c. Integrative Funding Subcommittee**
- d. Planning, Policy & Systems Development Subcommittee**

Chair recognized Janet Corson of the Identification, Assessment and Service Referral (IASR) Subcommittee, speaking on behalf Co-Chair, Judge Susan Henderson, as well as the IASR subcommittee members.

The subcommittee has determined two recommendations it wishes to present to the Governor's Juvenile Law Commission for consideration. The final format in which these recommendations will be submitted will include:

The Recommendation, Importance of the Recommendation, Affected Statutes or Administrative Rules, Specific Implementation Action Steps, Estimated Cost for the Recommendation, Barriers to Implementation, and the Date the Recommendation Should Be Implemented.

RECOMMENDATION ONE:

It is recommended that the Legislative Codes of the juvenile justice, child welfare, education and mental health systems be amended to contain a common Purpose Clause outlining the policies of the State of Indiana with regard to the provision of services to children and families.

Ms. Corson stated that the implementation of this recommendation will codify our philosophy as a state and will allow all systems to approach service to children and families with a clear statement of purpose. This statement will may also be used as a tool to hold all parties accountable.

RECOMMENDATION TWO:

It is recommended that there be a standard process that is followed to identify, screen, assess, and link needed services with children and families. Information obtained in this process must be shared with appropriate parties involved with the child and family. The selected screening and assessment instruments must be recognized as a legitimate and acceptable tool that will be accepted by the various systems that serve children.

Ms. Corson stated that the IASR subcommittee feels this recommendation is crucial. She then referred to a recent editorial written in the Indianapolis Star newspaper regarding the lack of mental health treatment available to children and its link to children coming into contact with the juvenile justice system. The lack of services may also lead to out of home placement for behavioral issues as well as out of school placements such as suspension and expulsion. Ms. Corson further referred to a statement made by Judge Taliaferro regarding this issue. Judge Taliaferro opined that while not all families are willing or able to partner with child service agencies, it is important that we, as a system, are able to offer assistance to families in coping with and managing the mental health, educational and behavioral issues affecting the child.

Bob Marra has previously stated that when children are involved with the child welfare or the juvenile justice systems, this may be an automatic screening trigger for further assessment and treatment. In the educational system, however, there is a different set of circumstances to be considered. Perhaps triggers for identification and further screening, assessment and treatment in the schools could be truancy, disruptive behavior, academic failure, and maladjustment.

If these or other indicators are present, then the child could be referred for screening with the parents' permission. Mr. Marra felt it is imperative to gain the parents' willing participation in the screening, assessment and treatment process and that a true change in culture from being dictatorial to encouraging parental involvement is key to attaining positive outcomes.

The IASR also recommends that identification, screening, assessment and treatment for substance and alcohol abuse issues be separated from mental health issues during this process.

For the purpose of this recommendation, screening is defined as a simple process used to identify an area or areas of the child's development that needs further assessment. Assessment is defined as a comprehensive evaluation of the child to identify specific service needs in the areas of educational and social functioning, mental and physical health, and alcohol and drug abuse. The domains that are to be screened and assessed include the following: a) prior legal involvement, b) mental health, c) witnessing domestic violence, d) alcohol/drug use, e) traumatic experience and f) peer relationships.

The subcommittee recommends the formation of an ad hoc committee. This committee should build on existing groups already addressing these issues and look at reports which have already been prepared and published.

The establishment of the criteria or standards that are to be used in the selection of a screening instrument and an assessment instrument is also recommended. The subcommittee is skeptical that one screening tool may be used across all systems. It therefore recommends consideration of using five or six agreed upon models for screening, keeping in mind the most important thing is to get the children screened.

There are several screening instruments and assessment instruments that can be used at no cost or at nominal cost for the purchase and scoring sheets, in-house duplication of the instrument and training manual. Administrative costs will include staff time necessary to develop the necessary policies, procedures, administrative rule and state plan modifications that may be required to implement this recommendation. Existing funds could be used to provide the staff training.

Potential barriers include the willingness of the respective systems to accept the screening and assessments done by other child service agencies. This would be a critical component to the reduction of costs inherent in giving multiple assessments to the same child/family. Additionally, once the need for services is identified, a plan must be in place for the provision of all necessary services. Finally, an evaluation component of the service provision and their outcomes

must be incorporated to ensure the money used for treatment is being put to its best use.

The Chair then opened the floor for questions.

Judge Taliaferro and Pam Cline inquire, in concert, where do we start with the identification and screening process? It would appear as though the schools are in the best position to detect some anomaly. Should this be a mandatory screening process with state involvement?

Pam Cline asserts that screening pre-kindergarten and Head Start aged children would not be too early. Currently, kindergarten children are screened for speech and hearing. Should consideration be given to adding a mental health screening at the same occasion?

Janet Corson stated that this might be a tough sell at the local level. The subcommittee had originally considered just this idea. However, feedback the subcommittee has received from parties they have polled indicate that this would be difficult and costly. It may also be viewed in a coercive manner. People may be more sensitive to this screening because of a perceived stigma attached to mental health issues. Perhaps, though, if this screening is seen as valuable, it may lead to more widespread acceptance. The idea of early, across the board screening of all school-aged children is not off the table at this time as a recommendation.

Amy Karozos suggests that parental permission may be requested such as that given when schools provide scoliosis, hearing and eye testing.

Judge Taliaferro acknowledges that the stigmatization attached to this issue is certainly a barrier; however, we can either “take down the barrier or build a bridge over it.” More public education surrounding mental health and its prevalence in child welfare, juvenile justice and educational issues is needed. For example, as many as 70% of children in the juvenile justice system are said to suffer from some form of mental health problem.

Roger Duvall suggested that a broad base of domains be tested, not just mental health. Other maladjustment disorders should also be identified and screened for.

Pam Cline agrees that if the screening is not given across the board to all students, this could backfire and a stigma may be attached to those selected for screening. She further asserts that one a one-time screening may not have the desired effect because children “don’t always present at a certain time.” An additional screening time may need to be considered such as when a child reaches a later grade level.

Roger Duvall stated he feels strongly that schools must be involved in the screening process because this is the only place that all kids are supposed to be.

Janet Corson agrees that this may be one of the subcommittee's recommendations to the JLC and that the JLC can decide how to incorporate this in their formal recommendations to the governor.

Pam Cline posed other points for consideration. Cost does play into the identification, screening, assessment and service referral of children. There are screening tools, however, that do not require administration by a clinician and they may be relatively inexpensive. Once a child is referred for services it is imperative that the state have services and systems in place to support their provision.

Judge Taliaferro stated that we can decide whether we want to spend our dollars on the front end, providing prevention and intervention, or on the back end, providing incarceration.

Pam Cline agrees and states that the Dept. of Correction is loaded with children who should have been identified as needing services earlier.

Bruce Donaldson offered an alternative point of view. The Indiana Juvenile Justice Task Force has been discussing this issue. Bill Barton, the Board President, maintains a strong conviction that doing an early assessment on children who are singled out puts a "mark" on these children who are at risk and this may then prove to be a self-fulfilling prophecy. On balance, however, Mr. Donaldson states that if all children were screened we may be better off.

Both Roger Duvall and Judge Taliaferro state that the "mark" has a way of happening anyway, with or without an assessment.

Amy Karozos stated that it also may depend on what the screening and assessment is used for. She cautions that some kids may be "screened out" or expelled from schools. She further suggested that safeguards must be in place such as those for hearing and eye screenings, regarding confidentiality as well as the parents' ability to choose what treatments they deem necessary once a potential problem has been identified by the screening tool.

Cathy Graham, guest, was recognized by the Chair. Ms. Graham suggests that unless all children are screened on a regular basis, we will miss children who suffer from depression as a long-term underlying problem. Children's lives also change and a once stable situation may no longer be in existence. Broader, more consistent, universal screening of all children will allow for the identification of problems at an earlier age.

Justice Rucker also recommended that the JLC look at “what happens next” with regard to service referral in the same amount of detail as the screening and assessment components.

The Chair closed the discussion by encouraging JLC members to provide any final input to the subcommittees as they prepare to submit their final reports in October, 2004.

Chair thanked the subcommittee members and staff for their work.

Chair recognized Cathy Graham and Natalie Auberry, from the Information Sharing (IS) Subcommittee speaking on behalf of the IS subcommittee.

This subcommittee has determined four high level recommendations which will be presented to the JLC for their consideration.

#### RECOMMENDATION ONE:

The Governor’s Juvenile Law Commission shall establish a standing subcommittee or oversight committee to facilitate information sharing. This committee would include stakeholders from all child service agencies. The committee would discuss what is currently taking place programmatically, what practices are working and those that are not. It would also be a resource for sharing outcomes. It would act as a data warehouse where quantifiable results would be tracked and published regarding both good and bad programs. This information would be disseminated for publication on all websites of state agencies serving children. It would not be so monolithic; it would just be information sharing in a singular format.

#### RECOMMENDATION TWO:

Any development of substantial technological changes should be reviewed by an oversight committee made up of stakeholders from all child service agencies. Getting everyone on the same page technologically would be of huge advantage to the state. Keeping all agencies apprised of what data systems are being used will reduce a duplication of processes as well as afford agencies the opportunity to assess whether the data systems will work with one another. A “silo effect” will be perpetuated if electronic interface among systems is not taken into account.

Chair asks if the subcommittee has identified any other states that are doing this well. The subcommittee chairs will research and report back regarding this.

#### RECOMMENDATION THREE:

Ensure that systems serving children include and encourage parental involvement. Recognition of parental rights and responsibilities should be at the center of the information sharing process. False barriers such as issues surrounding confidentiality should be broken down. Processes should be built and put in place

which includes bringing parents to the discussion at the earliest possible time. Parent guides to the Juvenile Justice, Education, Health/Mental Health, and Child Welfare Systems should be made available to parents to assist them in navigating through these complex systems.

Judge Taliaferro agrees that it is a wonderful idea to strengthen families, but just having parents sign a piece of paper does not guarantee their participation. Legislation may be needed to make services available to families and children in delinquency proceedings, on an emergency basis, similar to those available in CHINS proceedings.

Roger Duvall sees this situation similarly. He really does not find the parents being barriers to gaining information, however. He sees this as more of an institutional issue. His belief is that if you build relationships, you build trust.

Nikki Kincaid requested that Cheryl Shearer be invited to talk to the JLC about Parents as Partners in Systems of Care. This is a strength-based team approach.

#### RECOMMENDATION FOUR:

An affirmative statutory statement shall be developed which states that information sharing shall occur between qualified child service professionals in addition to the development of a purpose statement.

Senator Howard believes that changing the people's mindset is key. We must demand more of our children as well as more of our parents.

Chair thanked the subcommittee members and staff for their work.

Chair recognized Jim Hmurovich, speaking on behalf of David Reynolds and Joe Fistrovich, Co-Chairs of the Integrative Funding (IF) Subcommittee as well as the IF subcommittee.

Jim Hmurovich, JLC lead staff to the subcommittee, began by stating that if this issue was easy to fix, it would have been fixed by now. That having been said Mr. Hmurovich gave an overview of the original focus of the subcommittee which was to determine if all child service dollars were identified and combined, would an increase and improvement in the services provided to children and families occur. Computerized automation of state funding streams would enhance and strengthen our understanding of how we are currently spending money and prompt discussion regarding whether these are the most appropriate expenditures. The subcommittee does recommend that emphasis should be placed on Planning, Prevention, and Intervention efforts.

#### PHASE I:

Get information. The process of assimilating all of the pertinent information will take between two and three years.



PHASE II:

Decision Point—Public policy should be made so clear that the financial policy will follow. A centralized reimbursement for payment of services to children should be considered. The state will determine what it considers important and will reimburse for these services.

PHASE III:

Realignment of Funding—the three dimensional funding in Indiana is unique, combining Federal, State and Local dollars. Should the state take over those funds in a manner similar to Healthcare for the Indigent (HCI)?

The subcommittee recommends that a member of the Association of Indiana Counties and a member of a Taxation group be invited to join the discussion. The underlying theme is that no matter who pays for services, there must be infrastructure for the provision of comprehensive service delivery in place.

Steve DeMougin stated that one of the greatest challenges facing the subcommittee will be to get real time data regarding the number of services provided, by whom, to whom. Annual summary data is not as valuable because of the lapse in time.

Chair thanked the subcommittee members and staff for their work.

Chair recognized Allison Wharry, Co-Chair of the Planning, Policy & System Development Subcommittee (PPSD).

Ms. Wharry, speaking on behalf of her co-chair, Judge Steve David, and representing the PPSD subcommittee, gave the commission members an update of additional recommendations made by the subcommittee to date.

ISSUE/RECOMMENDATION:

The development of a subcommittee of the PPSD subcommittee to research the need for specific recommendations regarding when a child is competent to stand trial, how this is determined, at what level and during what time frame. This issue will specifically involve judges and may require training and education surrounding this issue. However, the subcommittee does not feel that any further legislation will be required.

Justice Rucker requests that the subcommittee rethink whether or not legislation would be appropriate. He states that several other states have enacted legislation that takes the guesswork out of this area.

ISSUE/RECOMMENDATION:

Indiana law sets many time limits for various proceedings in delinquency and CHINS proceedings; however, Indiana law does not address time limits for dispositional hearings in delinquency proceedings or the filing of a CHINS

petition, fact-finding hear and dispositional hearing in CHINS proceedings. It is recommended that time limits be established where they have not been addressed in Indiana statutes. For delinquency proceedings the specific recommendations are as follows:

It is recommended that a new statute be added to the Indiana Code that would ensure that dispositional hearings in delinquency cases take no longer than 20 days after the adjudication, excluding Saturdays, Sundays, and legal holidays.

It is recommended that a new statute be added to the Indiana Code that would ensure that an initial hearing take place no later than 10 days from the time the child is taken into custody (if in detention) and no later than 30 days from the filing of the petition if the child is not taken into custody.

#### ISSUE/RECOMMENDATION:

Additionally, IC 31-37-19-6 sets forth the time limits that a juvenile can be placed in the juvenile detention center. Indiana law is unclear whether consecutive periods of confinement in a juvenile detention facility may be imposed for multiple offenses within a single delinquency petition or multiple delinquency petitions adjudicated together (i.e. consecutive sentences).

It is recommended that Indiana Code be amended so that the court may not order consecutive periods of confinement in a juvenile detention facility during a single disposition or for related offenses.

Judge Taliaferro states that she would like there to be an additional statement requiring clear criteria be met stating the reasoning for sentencing. She further supports non-consecutive sentencing as well as credit for time served.

#### ISSUE/RECOMMENDATION:

Indiana currently has two statutes relating to determinate sentencing of juveniles to the Dept. of Correction.

It is recommended that the laws regarding determinate sentencing be eliminated from the Indiana Code.

Justice Rucker concurs and states that determinate sentencing appears to take away all incentives for juveniles in the system to maintain behavioral control and to pursue educational opportunities while such incentives are available in the adult system.

Pam Cline agrees and states that some children under determinate sentencing should be released early while others should be held longer.

ISSUE/RECOMMENDATION:

I.C. 20-8.1-5.1-12 sets out the procedure to follow in order to suspend a student. I.C. 20-8.1-5.1-13 sets out the procedure to follow in order to expel a student. Finally, I.C. 20-8.1-5.1-15 sets out the scope of judicial review for expulsion and suspension proceedings. H.B. 1228 died in committee during the past legislative session. This bill afforded students more protection during expulsion proceedings and expanded the scope of judicial review for expulsion proceedings.

It is recommended that H.B. 1228 be passed in its entirety. It is further recommended that schools use a graduated sanctions disciplinary program that allows administrators to discipline students on a case-by-case basis.

Indiana is currently ranked first in expulsions in the United States. Additionally, Indiana is ranked ninth in out-of-school suspension.

Roger Duvall recommends that more than one head count day (ADM) average daily membership day be observed. The addition of an additional ADM count after the first of February each year may encourage schools to keep students in school. Further, the transfer of tuition, especially regarding children in foster care should be enforced in a specific time frame, preferably as soon as legal settlement has been determined by a judge.

ISSUE/RECOMMENDATION:

IC 20-5-1.5-1 provides that “notwithstanding any other law and subject to section 7 of this chapter, the policy of the state is to grant school corporations all the powers that they need for the effective operation of each school corporation.” Additionally IC 20-8.1-5.1-18 authorizes school corporations to make a “referral to the juvenile court having jurisdiction over the student.”

It is recommended that Indiana law contain no references to mandatory reporting of crimes in school with the exception of firearms as defined by 18 U.S.C section 921 (a), but instead, allow the school administrators to use discretion as to whether to report the crime to the police or make a referral to the juvenile court.

Bruce Donaldson gave an overview of the Education Policy Briefs prepared by Russ Skiba, et al and encouraged the PPSD subcommittee to look at these briefs.

Chair thanked the subcommittee members and staff for their work.

## **VI. New Business**

### **Final Comments**

Senator Howard asks what the JLC envisions as ultimate outcome of all of these recommendations.

The Chair reiterated to all that the goal of the JLC is to propose legislative, systemic and administrative recommendations to the governor as well as the legislature to effect positive, systemic improvements.

The Chair thanked all subcommittees for the work that is being done and looks forward to the final reports to be presented as recommendations to the JLC during the October meeting.

Next Meeting:

Date:	Wednesday, October 13, 2004
Time:	10:30 a.m. — 12:00 p.m. (Indianapolis Time)
Location:	Indiana Government Center South, Conference Rooms 4 & 5
Issues:	Subcommittee Recommendations—Final Drafts

Meeting adjourned by Chair at 12:10 pm.